

Appln. No.: 10/059,182
Amendment dated November 7, 2005
Reply to Office Action of July 26, 2005

REMARKS/ARGUMENTS

The office action of July 26, 2005, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1, 3, 4, 7, 11-39 49, 50-51, and 54-55 have been amended to clarify the invention. Claim 2 has been incorporated into claim 1 and cancelled. Part of claim 51 has been incorporated into claim 50 and the relevant section of claim 50 removed. Claim 52 has been cancelled. Claims 1, 3-51, and 53-55 remain pending. No new matter has been entered.

Claim Interpretation

Applicants appreciate the Examiner's construction of the claims using the broadest reasonable interpretation. However, Applicants submit that the term "virus" cannot be read out of the claims based on a strained interpretation of the term. Applicants submit the Examiner is reading the term "virus" broader than one of ordinary skill in the art would construe the term and that the Examiner's construction is improper. Applicants submit a working definition of the term virus is "a program or programming code that replicates by being copied or initiating its copying to another program, computer boot sector or document."

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1-49 stand rejected under 35 U.S.C. §112, second paragraph. Applicants submit the modifications to the claims overcome the issues raised by the Examiner.

Rejection Over Fink

Claims 1, 3, 20-21, 32, 41-45, 47, 49-52, and 55 stand rejected under 35 U.S.C. § 103 over Fink et al. Applicants traverse.

Claim 1, as amended, recites:

" wherein the firewall classifies the received data packets into packets of a first type which cannot contain a virus and second type which can contain a virus and forwards the data packets of the

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first type to the destination without testing by the virus scanning engine and forwards the data packets of the second type to the virus scanning engine for testing thereof.”

Claim 1 now includes the firewall classifying received data packets. Fink performs pre-filtering based on where the packets are from and where the packets are destined. Fink does not teach filtering based on what a packet may or may not contain. Fink, in column 6, lines 44-64, describes filtering based on the source and destination nodes as well as the packets using expected ports. Fink fails to teach or suggest any filtering based on whether a received data packet may or may not contain a virus. Fink only pre-filters based on source/destination IDs and related information. Fink assumes that, if a packet comes from a known ID, the packet must be safe. Fink is therefore vulnerable to viruses that have infected computers whose IDs are recognized as “safe” by Fink’s firewall.

In contrast, claim 1 recites classifying packets based on the type of packet, not the origin of the packet. The Examiner does not explain how pre-filtering on source/destination IDs is the same as the claimed “classification” based on whether packets can contain a virus or not. As Fink fails to teach or suggest claim 1 as amended, claim 1 is allowable over Fink.

Independent claims 49 and 50 include similar recitations and are believed to be allowable as well.

Dependent claims 3, 20, 21, 32, 41-45, 47, 49, and 50-51, 55 are believed allowable at least as being dependent on allowable base claims.

Claims 4-5, 11-14, 22-23, 27-28, 33, 36-37, 46, 48, and 53 stand rejected under 35 U.S.C. § 103 over Fink et al in view of Franczek et al. Applicants traverse.

As above, independent claim 1 has been modified. Fink fails to teach or suggest filtering as now claimed. Franczek et al. also fails to teach or suggest filtering as set forth in claim 1. Rather, Franczek et al. determines that whether the users are subscribed to the virus filtering system. See Franczek et al. at Figure 3 (step 102) and column 5, lines 29-44. There is no teaching or suggestion in Franczek et al. regarding the filtering of packets based on whether or not they

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can contain a virus. In Franczek, all packets are either scanned or not scanned for viruses, irrespective of the extent they actually can contain a virus.

As there is no teaching regarding the filtering of packets as set forth in claim 1 as modified, claims 4-5, 11-14, 22-23, 27-28, 33, 36-37, 46, 48, and 53 are allowable over the combination of Fink in view of Franczek.

Claims 6-8, 24-25, 34, and 54 stand rejected under 35 U.S.C. § 103 over Fink et al in view of Lyle. Applicants traverse.

Fink et al. fails to teach or suggest the filtering as now recited in claim 1. Lyle fails to cure the failings of Fink et al. Lyle determines whether packets are from an authorized sender. In contrast, claim 1 filters packets based on whether they can or cannot contain viruses. As the combination fails to teach or suggest filtering as now claimed, claims 6-8, 24-25, 34, and 54 are allowable over the combination.

Claims 9-10, 15-19, 26, 29-31, 35, and 38-39 stand rejected under 35 U.S.C. § 103 over Fink et al in view of Lyle and Franczek. Applicants traverse.

As indicated above, none of Fink, Lyle, and Franczek teaches or suggests filtering by whether or not a packet can or cannot contain a virus. Because there is no teaching in the applied references, claims 9-10, 15-19, 26, 29-31, 35, and 38-39 are allowable over the combination.

Claim 40 stands rejected under 35 U.S.C. § 103 over Fink et al in view of Radatti. Applicants traverse.

Radatti fails to teach or suggest filtering packets based on whether or not they can contain viruses. In that Fink also fails to teach or suggest this feature of independent claim 1, dependent claim 40 is also allowable over the combination.

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Applicants submit the application is in allowable form. No fees are believed due. If additional fees are believed due, the Commissioner is authorized to debit our deposit account no. 19-0733 in the appropriate amount.

Respectfully submitted,

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